

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA
3

4 Shelly J. Newton,

5 Plaintiff

6 v.

7 County of Clark Nevada, et al.,

8 Defendants
9

2:17-cv-03064-JAD-VCF

Order Dismissing Case

10 On December 18, 2017, I ordered pro se plaintiff Shelly Newton to file a fully completed
11 application to proceed *in forma pauperis* or pay the \$400 filing fee, and I gave her 30 days to do
12 so.¹ That thirty-day period has now expired, and Newton has not filed a completed pauper
13 application, paid the filing fee, or otherwise responded to my order. I warned Newton that I
14 would dismiss this case if she failed to comply.²

15 District courts have the inherent power to control their dockets and “[i]n the exercise of
16 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.³ A
17 court may dismiss an action with prejudice based on a party’s failure to prosecute an action,
18 failure to obey a court order, or failure to comply with local rules.⁴ In determining whether to
19 dismiss an action for lack of prosecution, failure to obey a court order, or failure to comply with
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21 ¹ ECF No. 3.

22 ² *Id.*

23 ³ *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

24 ⁴ *See Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with
25 local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to
26 comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439,
27 1440–41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring pro se plaintiffs
28 to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir.
1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,
1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).


1 local rules, the court must consider several factors: (1) the public's interest in expeditious
2 resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the
3 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the
4 availability of less drastic alternatives.⁵

5 I find that the first two factors weigh in favor of dismissal. The risk-of-prejudice factor
6 also weighs in favor of dismissal because a presumption of injury arises from the occurrence of
7 unreasonable delay in filing a pleading ordered by the court or prosecuting an action.⁶ The fourth
8 factor is greatly outweighed by the factors in favor of dismissal, and a court's warning to a party
9 that her failure to obey the court's order will result in dismissal satisfies the "consideration-of-
10 alternatives" requirement.⁷ Newton was warned that her case would be dismissed if she failed to
11 file a completed pauper application or pay the \$400 filing fee.⁸

12 Accordingly, IT IS HEREBY ORDERED that this action is **DISMISSED without**
13 **prejudice** to Newton's ability to refile her claims in a new, separate action based on her failure to
14 comply with my December 18, 2017, order.

15 The **Clerk of Court** is directed to **CLOSE THIS CASE**.

16 DATED: January 26, 2018.

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18 U.S. District Judge Jennifer A. Dorsey
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24 ⁵ *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130; *Ferdik*,
25 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

26 ⁶ See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

27 ⁷ *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

28 ⁸ ECF No. 3.